

HOUSE BILL NO. 33

INTRODUCED BY GALLIK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR TRIAL BY JURY IF REQUESTED BY A DEFENDANT CITED EITHER PARTY TO A TRIAL FOR A MUNICIPAL CIVIL INFRACTION; CLARIFYING JURISDICTIONAL PROVISIONS; AND AMENDING SECTION 7-1-4151, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-1-4151, MCA, is amended to read:

"7-1-4151. Municipal infractions -- proceedings. (1) In municipal infraction proceedings:

(a) ~~the matter case must be tried before a judge or city court judge in the same manner as a small claim if the total amount of civil penalties that may be assessed does not exceed \$3,000. The matter may only be tried before a judge case must be filed in district court if the total amount of civil penalties that may be assessed exceeds \$3,000. A trial in the municipal, city, or district court must be by jury if requested by the defendant~~ EITHER PARTY.

(b) the city has the burden of proof that the municipal infraction occurred and that the defendant committed the infraction. The proof must be by clear and convincing evidence.

(c) the court shall ensure that the defendant has received a copy of the charges and that the defendant understands the charges. The defendant may question all witnesses who appear for the municipality and produce evidence or witnesses on the defendant's behalf.

(d) the defendant may be represented by counsel of the defendant's own choosing and at the defendant's own expense;

(e) the defendant may answer by admitting or denying the infraction;

(f) if a municipal infraction is ~~proven~~ proved, the court shall enter a judgment against the defendant. If the infraction is not ~~proven~~ proved, the court shall dismiss the charges. Each day that a violation occurs or is permitted to exist by the defendant constitutes a separate infraction.

(2) All penalties or forfeitures collected by the court for municipal infractions must be remitted to the municipality in the same manner as fines and forfeitures collected for criminal offenses. If the person named in the citation is served as provided in 7-1-4150 and fails without good cause to appear in response to the civil

1 citation, judgment must be entered against the person.

2 (3) A person against whom judgment is entered shall pay court costs and fees as in small claims court
3 under Title 25, chapter 35. If the action is dismissed by the court, the municipality is liable for the court costs and
4 court fees.

5 (4) Seeking a civil penalty as authorized in this section does not preclude a municipality from seeking
6 alternative relief from the court in the same action.

7 (5) When judgment has been entered against a defendant, the court may do any of the following:

8 (a) impose a civil penalty by entry of a judgment against the defendant;

9 (b) direct that payment of the civil penalty be suspended or deferred under conditions imposed by the
10 court;

11 (c) grant appropriate alternative relief ordering the defendant to abate or cease the violation;

12 (d) authorize the municipality to abate or correct the violation;

13 (e) order that the municipality's costs for abatement or correction of the violation be entered as a
14 judgment against the defendant or assessed against the property where the violation occurred, or both.

15 (6) If a defendant willfully violates the terms of an order imposed by the court, the failure is contempt."

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